



राजस्वी सं. दी. (डी. एम.)—७३

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No. 6] NEW DELHI, SATURDAY, FEBRUARY 21, 1987/PHALGUNA 2, 1908

इस भाग में भिन्न पृष्ठ संख्या की जाती है जिससे कि यह भलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii)
PART II—Section 3—Sub-section (iii)

(संघ राज्य के अधिकारों को छोड़कर) केन्द्रीय अधिकारों द्वारा जारी किए गए आवेदन और अधिसूचनाएं
Orders and Notifications issued by Central Authorities (other than Administrations of Union
Territories)

भारत निर्णय आयोग

नई दिल्ली, 28 अप्रैल, 1986

आ०भ० 22 :—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43)
की धारा 106 के अनुसरण में, निर्वाचन आयोग 1985 की निर्वाचन शर्ती से.
3 में इलाजावाव उच्च न्यायालय (लखनऊ बैच) के तारीख 18-11-1985
के निर्णय को एतद्वारा प्रकाशित करता है।

[ग. 82/उ.प्र.-सो.स./3/85- (लखनऊ)]
आवेदन से
एस.सी. जैन, सचिव

ELECTION COMMISSION OF INDIA

New Delhi, the 28th April, 1986

O.N. 22.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgment dated 18-11-1985 of the High Court of Judicature at Allahabad (Lucknow Bench) in Election Petition No. 3 of 1985.

[No. 82/UP-HP/3/85(LKW)]

By order,

S. C. JAIN, Secy.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT
ALLAHABAD, (LUCKNOW BENCH), LUCKNOW

Election Petition No. 3 of 1985

Deep Narain Pandey Advocate, aged about 40 years,
s/o late Shri Surya Narain Pandey, Resident of
383, Malviya Nagar, Police Station Kotwali Nagar,
Gonda. ...Petitioner.

Versus

Sri Anand Singh, aged about 48 years, son of late
Raja Raghavendra Pratap Singh, Resident of Village
and Police Station Manakapur, district Gonda.
Respondent.

Election Petition u/s 80 and 100(1)(b), (c) (ii)
(iii) & (iv) of the Representation of People Act,
1951 against the declaration of respondent on
29-12-1984 as returned candidate from 33-Gonda
Parliamentary Constituency.

Lucknow :

Dated : 18-11-85.

Honble Parmeshwar Daval I.—This Election Petition has been filed by Sri Deep Narain Pandey under Sections 80 and 100(i)(b), (d), (II), (III) and (IV) of the Representation of People Act, 1955 against the respondent Sri Anand Singh who was declared elected as a member of Parliament on 29-12-1984 from the 33-Gonda Parliamentary Constituency.

The respondent Sri Anand Singh was elected a Member of the Parliament from that constituency in the previous election also and allegations of corrupt practices to further his cause of his Election have been made. It is alleged that he made use of the government official machinery, specially personnel, employed in the Police Department and in the Educational Institution. It has further been alleged that he enjoyed a bad reputation as he had done nothing for his constituency after he was formerly elected and that he managed the transfers of the officers and officials to suit his

requirements. It is further alleged against him that he utilised the services of one Sri Trijugi Narain as a Polling Agent although that Trijugi Narain was a Police Constable and a government employee.

The respondent moved an application no. 39(E) for rejection of the Election Petition for non-compliance of Section 83(1)(a)(b)(c) of the Representation of People Act on the ground that as the allegations made against the petitioner are incorrect, malafide and vague; the requirement of section 83(1)(a) of the Act have not been fulfilled; the averments are wholly vague and general and do not make out any claim of corrupt practice as envisaged in section 123 of the Act; the allegations of corrupt practice have not been specifically sworn in the affidavit in the prescribed manner; and that the allegations suffer from total breach of the provisions of the section 83 of the Act.

The respondent Sri Anand Singh moved another application No. 41(E) of 1985 under Order VI Rule 16 C.P.C. for deleting the pleadings of the Election Petition with the allegations that the petition has been filed with unnecessary pleadings which are scandalous, frivolous and vexatious; incorrect pleadings have been made which is an abuse of the process of the Court; the allegations of paras 7, 8 and 9 and a part of para 10 of the Election Petition are unnecessary and intend to prejudice and embarrass the respondent; the allegations of paras 15 and 16 are knowingly false pleadings and allegations of para 17 are vague and have been pleaded frivolously and are an abuse of the process of the Court for delaying the disposal of the Election Petition; the allegations of para 19 are vague, frivolous and unnecessary, and allegations of paras 22 to 33 have been made with a view to prejudice the Court and are an abuse of the process of the Court; and that the allegations made are not covered by the provisions of section 123 of the Act.

The petitioner filed objections vide 54(E) against the application No. 39(E) and objections vide application No. 55(E) against the application No. 41(E).

The President of India had called upon by a Notification support of his application No. 39(E) and his reply vide No. 68(E) in support of his application No. 41(E). Affidavits were filed in support of the various applications.

The president of India had called upon by a Notification dated November 20, 1984 published in the Gazette of India (Extra-Ordinary) Part II, issued under Section 14 of the Representation of People Act, 1951 (hereinafter to be described as Act), of the Parliamentary constituencies to elect members of the Lok Sabha. The Election Commission of India issued the requisite Notification, nominations were filed till November 27, 1984 and the last date of withdrawal was November 30, 1984. The respondent of the present case contested the election from the 33-Gonda Parliamentary Constituency and he was declared elected on December, 29, 1984.

Section 87 of the Act lays down that subject to the provisions of this Act and of any rules made thereunder, every Election Petition shall be tried by the High Court, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 to the trial of suits. Therefore, the provisions of Order VI Rule 16 C.P.C. are applicable to the Election Petition.

Order 6 Rule 16 C.P.C. reads as follows :—

"The Court may at any stage of the proceeding, order to be struck out of amended any matter in any pleading :—

- (a) which may be unnecessary, scandalous, frivolous or vexatious, or
- (b) which may tend to prejudice, embarrass or delay the fair trial of the suit, or
- (c) which is otherwise an abuse of the process of the Court.

However, a distinction has been made regarding the nature of pleading as between a plaint of a suit and an Election Petition. Section 83 of the Act lays down as under :—

"(1) An election petition :—

- (a) shall contain a concise statement of the material facts on which the petitioner relies ;
- (b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and
- (c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 for the verification of pleadings :

Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition."

The petitioner assailed the maintainability of the applications 39E and 41E on various grounds.

The petitioner contended that an Election Tribunal cannot go far away from the provisions of the Representation of People Act, 1901. He referred to the case of Jyoti Basu Vs. Devi Ghoshal (AIR 1982 SC 983) in which it was observed that it is special jurisdiction of the Election Tribunal and special jurisdiction has always to be exercised in accordance with the status created and that no election may be questioned except in the manner provided by the Representation of People Act, 1951.

The power of the High Court has been challenged on point of dismissing an election petition at the preliminary stage on the ground other than what is provided under section 86 of the Act. Section 86 of the Act lays down that the High Court shall dismiss an election petition which does not comply with the provisions of section 81 or Section 82 or Section 117 of the Act. The explanation to Section 86 lays down that an order of the High Court dismissing an election petition under sub-section (1) shall be deemed to be an order made under Clause A of Section 98. Section 81 deals with the presentation of petition within 45 days and that the petition has to be accompanied by as many attested copies thereof as there are respondents. Section 82 refers to the respondents, who have to be joined in the petition and it further lays down that if the petitioner claims a declaration that he himself or any other candidate has been duly elected he would have to make all the contesting candidates as parties to the petition alongwith any other candidate against whom allegations of any corrupt practice are made in the petition. Section 117 requires the petitioner to deposit a sum of Rs. 2,000 as security and to furnish further security if so required by the Court. Section 98 lays down that at the conclusion of the trial of an election petition the High Court shall either dismiss the election petition or declare the election of all or any of the returned candidates to be void or declare the election to be void and the petitioner or any other candidate to have been duly elected. On this basis the petitioner claims that the provisions of Section 86 of the Act do not include the violation of the provisions of Section 83 of the Act and the High Court cannot dismiss an election petition at a preliminary stage if it does not comply with the provisions laid down under Section 83 of the Act.

Referring to the provisions of Order VI Rule 16 and Order VII Rule XI of the Code of Civil Procedure the petitioner contended that in view of the provisions of Section 98 of the Act, any order can be made after the conclusion of the trial and that in view of the provisions of Order VI Rule 16 of the Code of Civil Procedure any part of the petition can be struck out if it falls within any of the category. Order 6

of Rule 16. It has been pointed out that there is a clear cut distinction between the striking out of few grounds and the dismissal of the petition. In case these grounds are inseparable from other grounds, it has been urged, the High Court can reject the entire petition or allow it to be amended accordingly. The petitioner claims that in his petition a separate charge of corrupt practice creating separate cause of action has been separately pleaded. Referring to the provisions of Order 7 Rule XI of the Code of Civil Procedure it has been argued on behalf of the petitioner that a plaint can be rejected where it does not disclose cause of action but it cannot be dismissed. Obviously there is a distinction between rejection of the plaint and the dismissal of the plaint. In the case of rejection, the plaintiff is entitled to make an amendment in the pleadings. At the same time, while rejecting the petition under Order 7 Rule XI of the Code of Civil Procedure on the ground that it does not disclose a cause of action, the High Court has to examine the entire grounds of petition in its totality.

The petitioner contended that a plaint cannot be rejected if a document is not supplied alongwith the plaint. But, it has been specifically mentioned in Section 81(3) of the Act itself that attested copies are to be accompanied with the petition.

Section 100(1)(b) of the Act lays down that if the High Court is of opinion that any corrupt practice has been committed by the returned candidate or his election agent or by any other person with the consent of the returned candidate or his election agent, the High Court shall declare the election of the returned candidate to be void. The petitioner contended that the elements of the word "consent" would be looked into only when the petition is heard on merits and that too after evidence.

It was argued on his behalf that in case of lack of certain material facts the election Tribunal is bound to allow the amendment of the election petition before issuing notice to the respondent. He further referred to the Explanation to sub-clause (4) of Section 86 of the Act which lays down that any candidate not already a respondent shall, upon an application made by him to the High Court within fourteen days from the date of commencement of the trial and subject to any order as to security for costs which may be made by the High Court, be entitled to be joined as a respondent. The Explanation clarifies that for the purposes of this subsection (4) and of Section 97, the trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the High Court and answer the claim or claims made in the petition. Thus, according to the petitioner, the trial commenced in this case as soon as the respondent put in his appearance and the petition cannot be summarily dismissed before the conclusion of the trial.

The petitioner re-iterated that Section 83 of the Act is not now included under section 86(1) of the Act which is a panel section requiring dismissal of an election petition in case of non-compliance of the requirements of Section 81, 82 and 117 of the Act. But the case of Mithlesh Kumar Pandey Vs. Vaidyanath and others (AIR 1984 SC 305) may be referred in this connection. It has further been contended on behalf of the petitioner that the petition cannot be dismissed on account of defective verification and defective affidavit. But a petition has to be verified in accordance with provisions of Order 6 Rule XV of the Code of Civil Procedure and affidavit has to be filed in C. A. Form No. 35.

An election can be declared void on the grounds mentioned in the section 100 of the Act which reads as follows :

"Grounds for declaring election to be void"

(I) Subject to the provisions of sub-section (2) if the High Court is of opinion :—

(a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act or the Government of Union Territories Act, 1963 (20 of 1963), or

- (b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or
- (c) that any nomination has been improperly rejected; or
- (d) that the result of the election in so far as it concerns a returned candidate, has been materially affected—
 - (i) by the improper acceptance of any nomination, or
 - (ii) by any corrupt practice committed in the interest of the returned candidate or an agent other than his election agent; or
 - (iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or
 - (iv) by any non-compliance with the Provisions of the Constitution or of this Act or of any rules or orders made under this Act,

the High Court shall declare the election of the returned candidate to be void.

(2) If in the opinion of the High Court, a returned candidate has been guilty by an agent other than his election agent, of any corrupt practice but the High Court is satisfied—

- (a) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and without the consent of the candidate or his election agent;

X X X

- (c) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt Practice at the election; and
- (d) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agent;

then the High Court may decide that the election of the returned candidate is not void."

The petitioner relied on the case Bhikaji Keshao and Another Vs. Brijlal Nandial and Others. (A.I.R. 1955 S.C. 610) in which it was held that in the case of a petition under Section 80, where the enumeration of corrupt Practices committed by the respondent was vague, except for one item, the tribunal when dealing with the matter in the early stages should not dismiss the application and it should exercise its powers and call for better particulars and that the order of Tribunal dismissing the petition outright would be clearly erroneous. But the allegations contained in the said petition were considered in the light of the Provisions contained in section 83(2) (Old) of the Act and it was held in the same cited case that the Primary responsibility for furnishing full Particulars of the alleged corrupt practices to file a petition in full compliance of section 83(2) of the Act was on the petitioner and that he cannot take shelter behind the fact that neither the Tribunal nor the respondent had, in terms, called upon him to furnish better particulars. It was further held that while the Tribunal has undoubtedly the power to permit the amendment of the schedule of corrupt practices by permitting the furnishing of better particulars as regards the items therein specified, there was no duty cast upon the Tribunal to direct motto the furnishing of better particulars.

It is thus evident that the petitioner is primarily required to furnish the required concise statement and full particulars. In the instant case, the petitioner has, on the contrary, contended that the Election Petition contents are in accordance with the Provisions of section 83(1)(a)(b)(c) of the Act and there is no need to even furnish better particulars or to move an amendment application. Instead of

requiring the petitioner to amend his pleadings, it has only to be seen that whether the pleadings, in the petition are in accordance with the provisions of section 83(1)(a)(b)(c) of the Act, I.

It was held in the case of Madan Lal Vs. Zaryhas Haider and others (A.I.R. 1958 Allahabad 596) that where corrupt practices are alleged in such vague to as that it is not possible for the respondent to meet the allegations made in the Election petition and the paragraphs containing the allegations further do not satisfy the requirements of section 83(1)(b), the Tribunal is justified in striking off the pleading contained in these paragraphs. But it was over noted in the case of Baliram Singh v. Lakshmi Narayan & others (A.I.R. 1960 SC 778).

The petitioner referred the case of S. Raghubir Singh Gill Vs. Gurcharan Singh Tohra and others, (A.I.R. 1980 S.C. 1362) in which case it was held that in order to ensure the purity of election, it is better to so construe Section 109 as to embrace within its fold all conceivable infirmities which may be urged for voiding an election. Thus, the Act has to be interpreted in a way that helps to achieve the Constitutional goal.

The petitioner relied on the case of Manphul Singh Vs. Surender Singh (A.I.R. 1973 S.C. 2158) in which case it was held that charges of corrupt practice are quasi criminal and should be proved satisfactorily, and that every pleading shall contain, only a statement in a concise form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved. This provision of law is not to be disputed but has to be seen that if the compliance of the provisions of section 83(1)(a) of the Act has been done in this case or not in as much as that if the election petition contains the concise statement of the materials facts which the elections petitioner relies and also that full particulars of the corrupt practices are or are not alleged including as full as statement as possible of the names of the parties alleged to have committed such practices and the date and the place of the commission of each such practice.

The petitioner placed reliance on the case of Roop Lal Sothi V. Nachhattar Singh (A.R. 1982 S.C. 1559), in which case the High Court directed the deletion of certain paragraphs of the election petition on the ground that there was non disclosure of the material facts sufficient to give rise to a cause of action under section 100(1)(d)(iv) of the Act and it was held in appeal that the order passed by the High Court directing that paragraphs 4 to 18 of the election petition be struck out cannot be sustained on the terms of Order 6 rule 16 C.P.C. as there was no finding that the averments in the said paragraphs of the election petition were either unnecessary, frivolous or vexatious or that they were such as might tend to prejudice, embarrass or delay the fair trial of the election petition nor was there any finding that the averments therein are such as to constitute abuse of the process of the Court. But it has yet to be seen in the instant case that if certain paragraphs are or are not to be struck out under Order 6 rule 16 C.P.C.

He cited the case of Samant, N. Balakrishna etc. Vs. George Ferosndez and others (A.I.R.) 1969 S.C. 1201) in which case it was held that indeed the penalty of dismissal summarily was enjoined for petitions which did not comply with the requirement.....Today the particulars need not be separately included in a schedule but the distinction remains.....The entire and complete cause of action must be in the petition in the shape of material facts, the particulars being the further information to complete the picture. This distinction is brought out by the provisions of section 86 although the penalty of dismissal is taken away. But it was held in the same case that the provisions of section 83 are mandatory and that the entire and complete cause of action must be stated in the petition in the shape of material facts while the function of particulars is to give necessary information to present full picture of the cause of action.

The respondent relied on the case of Udhav Singh v. Madhav Rao Scindia (A.I.R.) 1976 S.C. 744) in which case, while referring to section 83 of the Act, a distinction has

been drawn between "material facts" and "material particulars" and it was held that failure to plead over a single material fact leads to an incomplete cause of notice and incomplete allegations of such a charge are liable to be struck off under Order 6 rule 16, C.P.C. It was further held that if the petition is based solely on these allegations which suffer lack of material facts, the petition is liable to be summarily rejected for want of the cause of action. It was further observed that in the context of a charge of corrupt practices "material facts" would mean all the basic facts constituting the ingredients of the particular corrupt practice alleged, which the petitioner is bound to substantiate before he can succeed on that charge and that failure to lead even a single material fact may be fatal. Reference was made to the case of Arun Kumar Rose vs. Mohd. Furkan Ansari (1984 (1) SCC 91) to show that allegations made against the elected candidates must be clear and specific.

It was held in the case of Daulat Ram Chau La. Vs. Anand Sharma (1984) (2) SCC 64) that allegations of corrupt practice must be strictly construed.

Also it was held in the case of Charan Lal Sahu Vs. Gyasi Zail (1984 (1) SCC, 390) that pleadings must be clear and specific.

The respondent further relied on an unreported case of Ch. Azhar Hussin V. Rajiv Gandhi (Election petition No. 2 of 1985) and on the reported case of Bhagauti Prasad Dixit 'Chorewala' Vs. Rajiv Gandhi (1985 AWC 682) of this court, wherein applications under order 6 Rules 16, C.P.C. were allowed and the petitions were dismissed.

As about the furnishing of the copies of documents for the verification of affidavit, it was held in the case of M. Karunanidhi Vs. H. V. Handa & others and in other allied cases (A.I.R. 1983 SC. 558) that there an allegation of corrupt practice was based on a photograph and the photograph formed into integral part of election petition and was not merely piece of evidence, failure to supply its copy amounted to violation of section 8(3). It has further held in the case of Rajendra Singh Vs. Usha Rani (1984 (3) SCC, 399) that procedural requirements must be mandatorily complied with and true copies must be furnished to the elected candidate before filing petition, and also that true copies must not be mixed with incorrect copies.

It was held in the case of Sharif-ud-din Vs. Abdul Gani Lone (A.I.R. 1980 S.C. 303) that the requirement under section 89(3) of the J & K. Act was mandatory requirement and the non compliance of the same should result in the dismissal of the petition as provided in section 94 of the Act and also that the attestation by an advocate for the petitioner should not be treated as equivalent of attestation under his own signature.

As about the verification of an affidavit, it was held in the case of Virendra Kumar Saklecha Vs. Jagiwan and others (A.I.R. 1974 S.C. 1957) that where there has been allegations of corrupt practices, and affidavit in support of the petition should be verified on the lines of Order 19 C.P.C. and the source of information should be clearly disclosed.

It was held in the case of Prabhu Narayan Vs. A.K. Srivastava (A.I.R. 1975 S.C. 968) that when section 123(4) speaks of publication, it means distribution.....mere printing of the pamphlets would not fall under section 123(4).....Therefore, where the only charge made in the election petition was the charge of publication of certain pamphlets and not only printing and evidence regarding printing was relied upon only to corroborate the evidence, regarding distribution of the pamphlets, the failure to give particulars of the printing in the affidavit filed in support of the election petition cannot lead to the dismissal of the petition.....The proviso to section 83(4) does not say that the allegations of corrupt practice and particulars thereof should be given in the affidavit....Further more, according to Section 86 of the act, only petitions which do not comply with the provisions of section 81 or 82, or section 117 are liable to be dismissed.

So it has to be seen that if the petition filed by the petitioner Deep Narain Pandey fulfils the requirements of the law laid down in this connection. Before deciding that if some of the pleadings are liable to be struck down under Order 6 Rule 16 C.P.C., the term 'scandalous', 'frivolous' 'vexatious', 'embarrass' and 'vague' have to be analysed.

The term 'scandalous' has been explained generally in the various dictionaries to a term which creates the general feeling of out-rage or indignation, offending moral feeling and sense of propriety. The meanings of the word 'frivolous' as given in the Concise Oxford Dictionary, are paltry trumpery, trifling futile, not serious and silly.

The meanings of the word 'vexatious' in the same dictionary are given as causing or tending to cause vexation, law not having sufficient grounds for action and seeking only to annoy defendant.

The word "embarrass" is shown in same dictionary to convey the meaning-encombat impede, and make a person to feel awkward or ashamed.

The meaning of the word 'vague' in the same dictionary is given as indistinct, not clearly expressed of uncertain or ill-defined meaning or character.

Now looking into the parawise pleadings of the petitioner Deep Narain Pandey, the position is as follows :—

In paras 1 to 3, no allegation against the elected candidates has been made.

The petitioner has alleged in paragraph 4 that the respondent adopted corrupt practices to further cause of his election making use of the government officials and machinery, especially the personnel employed in the police department and in the educational institutions. But corrupt practices have been defined in section 123 of the Act and corrupt practices could be adopted during the election only and not before the election. So a reference of corrupt practices to further the cause of election is unnecessary and vague. It has not been mentioned in this paragraph that how the government machinery was employed was employed to further the cause of election.

In para 5 the petitioner alleged that he was not seeking relief for himself. It has been explained in paragraph 5 that under what circumstances he did not implead the other contesting parties as candidates. So this paragraph does not come within the mischief of order 6 rule 16, C.P.C.

He pleaded in paragraph 6 that the respondent Avand Singh, who was declared elected, had earned a bad reputation having done nothing to further the cause or to voice miseries of the residents of his constituency after his being elected in the year 1980 and that he started manipulation for the approaching elections and got some officials posted of his own choice in the district. These allegations are absolutely vague and scandalous nor they were necessary for the purposes of election petition.

He pleaded in paragraph 7 that the Superintendent of Police, Gonda, named Sri Manoj Kumar Singh, was not dancing to the tune of the respondent and he was transferred whereafter Sri Avadh Narain Singh was posted as Superintendent of Police Gonda, in the latter half of year 1984 and that he was the man of the respondent. Similar allocations have been made about the posting of certain Station Officers. But, as the allegations themselves show the Superintendent of Police Sri Manoj Kumar Singh was transferred much before the elections. The Allegations about Sri Avadh Narain Singh himself are unnecessary, scandalous, frivolous and vexatious. It has not been pleaded that what particular act of Sh. Avadh Narain Singh indicated that he was a man of the respondent. These allegations are vague as far as the pleadings of the election petition are concerned.

He pleaded in para 8 that Sri Kamal Singh, B.D.O. Rupaidesh was ordered to be transferred but his transfer was stayed and he remained posted at different Blocks in the district of Gonda for last over 8 or 9 years. This allegation simply shows that the respondent Anand Singh, being sitting M.P. could have influenced for the stay of the said B.D.O.

of district Gonda. But it has nothing to do with the requirements the pleadings of the election petition and this paragraph has been introduced unnecessarily.

It has been pleaded in paragraph 9 that some Police officials openly worked not only in their own area of posting but covered the entire Parliamentary segments to further the cause and canvass for the election of the respondent. Any particular role played by the said police officials has not been pleaded. It has been pleaded just to prejudice. A government servant is not expected to work for a particular candidate or a party in elections. The pleas raised in this paragraph are absolutely irrelevant and vexatious for causing prejudice. The case of Smt. Indira Gandhi Vs. Raj-Narain (A.I.R. 1975 S.C. 2299) may be referred on this court.

It has been pleaded in paragraph 10 that one Sri Trijungi Narain was a suspended police constable and he was given assurance of being reinstated and that he worked for the respondent. It has not been mentioned that when, where and before whom such an assurance was given or that how the respondent Anand Singh had engaged or had his tacit consent in letting a suspended constable work for him in the election. Even if that constable was under suspension, he continued to be the government servant, and he was not expected to work for any candidate or party in any election. These pleadings are obviously vague and vexatious. It was further pleaded in this paragraph that he was reportedly last posted at Lucknow from where he was placed under suspension. This pleading has been made just to create a sense of prejudice. It has not been pleaded in this paragraph that what role was assigned to constable Trijungi Narain and what role he played in the election.

In para 11 it has been pleaded that the said Trijungi Narain made all out effort to further the cause of election of the respondent in the hope of being reinstated and that he went to various village for canvassing with some police officers or with the election agent Rani Pal Singh. The name of various villages have been mentioned in this paragraph. But Trijungi Narain was only of the rank of police constable who was under suspension. It has not been specified that who were the persons whom he influenced and canvassed for voting in favour of the respondent. The pleading in paragraph 11 are so vague that an unlimited evidence may be adduced on the points pleaded in this paragraph. These pleadings to not meet the test laid down in Section 83(1)(b) of the Act.

In para 12 it has been pleaded that the said constable Trijungi Narain acted as a polling agent on 27-12-84 and he had canvassed along with other police officials. But there is nothing to show nor it has been pleaded that said Trijungi Narain had acted as an agent with the consent of the respondent. Also, the names of those police officials have not been mentioned, who are said to have accompanied this constable Trijungi Narain. So it has not met the requirement of section 83(1)(b) of the act and it is again a vague allegation against the respondent:

It has been pleaded in paragraph 13 that the polling agent of the petitioner had raised objection before the Presiding Officer that Trijungi Narain could not legally work as polling agent but his objection was rejected on the oral statement of Trijungi Narain to the effect that he was no more a government employee. It has not been shown by any record that Trijungi Narain had acted as polling agent with the consent of the respondent and objections were raised and were dismissed.

The allegation of paragraph 14 that the respondent was associated with the management of R. P. Inter College, Mankapur, A.P. Inter College Manakapur and also Gandhi Inter College, Nawabganj as Manager. It has no relevancy to the matter in issue, and it is unnecessary.

It has been pleaded in paragraph 15 that the respondent made use of the teachers and employees of the aforesaid three Inter-college besides the other government employees and some teachers of Basic Shiksha Parishad. Any particular name of any such teacher has not been mentioned in this paragraph and the allegations are not vague.

It has been pleaded in paragraph 16 that all the employees of the aforesaid Inter College canvassed, campaigned and worked for the respondent with his consent and knowledge

and pressure. The name of one Radhika Prasad Tripathi has been mentioned to have worked as Counting Agent and it has also been pleaded that formerly he was an Assistant Teacher in Ganga Prasad Mishri Lal Inter College, Kauria Bazar in Katra Basar constituency. These pleading themselves stand self contradicted. He was not in active service in any of the formerly mentioned three Inter Colleges where the respondent is alleged to have worked as Manager. He was not working teacher in Ganga Prasad Mishri Lal Inter College also. So he could be appointed to work as a counting agent after the election was over. His role has not been assigned in the election itself. So this pleading is wholly uncalled for and unnecessary.

One Lakshmi Narain, Assistant Teacher of R. P. Inter College, Mankapur, is alleged to have canvassed and worked for the respondent with his knowledge and to have worked as a polling agent. It has not been pleaded that if the respondent could have any influence over an Assistant Teacher, R. P. Inter College, Mankapur or that the consent of the respondent was given to Lakshmi Narain, same allegation has been made with reference to Beni Madho Singh, Assistant Teacher of R. P. Inter College, Mankapur and one Pradeep Kumar Singh of Mankapur and also one Ramadhar Singh, Assistant Teacher of Kanhaiya Lal Inter College, Colonelganj (Gonda). But, as discussed, these allegations are unnecessary and frivolous. Also, it has not been pleaded that the said Assistant Teachers happened to be public servants and could not be authorised to work as polling agents or the counting agents.

It has been pleaded in para 17 that there has been booth capturing in more than fifty four polling stations at the instance of the respondent. It has not been mentioned as to who had committed the act of booth capturing. It has also not been pleaded that the election observers had raised any objection or had taken any action. The petitioner himself was not expected to be present in all the polling stations at the time of alleged booth capturing. Also, it has not been mentioned as to which voter was prevented from voting. So these allegations are just scandalous and vexatious with a view to cause prejudice.

It has been pleaded in para 18 that the petitioner sent a telegram to the Election Commission and submitted his written protest application to the District Election Officer on 28-12-84. It has not been mentioned that what action was taken on his telegram or protest application. These pleadings do not refer to any corrupt practice so the pleadings are unnecessary.

It has been pleaded in para 19 that the Observer has reportedly sent a telegram to the Election Commissioner regarding booth capturing. It shows that the petitioner is not sure about it and this allegation also is vague.

It has been pleaded in para 20 that the ballot boxes of few polling stations were taken out of their turn from being counted, reportedly on the basis of the booth capturing and the same were counted in the end and that it is not known to the petitioner that if any instructions were given by the Election Commission or by the District Election Officer. The result of counting of 159, Mankapur and 160, Mujhena Assembly constituencies of the polling stations has been mentioned in this paragraph. These pleadings themselves show that the petitioner was himself not sure about the correctness of the allegations made by him. He referred to a few polling stations without specifying those polling stations. The figures of votes given by him in this paragraph themselves show that there should not have been any booth capturing. It has not been mentioned that how many votes were polled by the respondent. So these allegations are again vague and frivolous.

It has been pleaded in para 21 that the petitioner personally reached the polling stations No. 153, 154 and 155, forming part of 160 Mujhena Assembly constituency of 33 Gonda Parliamentary constituency and found that though the time for polling was not over but the ballot boxes were sealed and the polling was declared to be over. He further pleaded that his agents Ram Kumar and Ravi Prasad reported that from the very commencement of the voting the

electorates had been told that their votes had already been cast. He further pleaded that the polling agent had handed over two ballot papers which bore the single marking in favour of Congress (I) candidate the respondent Anand Singh and that the ballot papers were found to have contained less number of votes shown to have been cast. In these pleading also the petitioner has not mentioned the names of those electorates who were refused their right of franchise. It does not stand to reason that his polling agents were so careless and negligent from the very beginning that they did not take any action till the petitioner himself reached there. It is also not understandable that the polling was closed and the ballot papers were marked. There should have been some reason that why the polling officers who were working on those booths were out to help the respondent. The petitioner was declared to have lost the election and so he could manipulate the complaint of his agents.

It has been pleaded in para 22 that one Devendra Nath Mishra was polling Officer at polling station no. 190 Devi Nagar of 159 Mankapur Assembly Constituency and that the Presiding Officer had refused to accept his report of booth capturing which he had to submit to the Assistant Returning Officer. This paragraph is just in generalisation of the allegations made in paragraph 21. It shows that all the other polling Officer except Devendra Nath Mishra continued their work. So the pleadings of this paragraph are unnecessary.

It has been pleaded in paragraph 23 that the petitioner wanted to make an inspection of the records of 159 Mankapur Assembly constituency but the records were not traceable and were not submitted by the Assistant Returning Officer. These allegations have nothing to do with the part played, by the respondent nor they refer to any corrupt practice to have been committed by him. So this paragraph 23 is irrelevant and unnecessary.

In paragraph 24 one Sriuath Pandey, Polling Officer of Polling Station No. 198 Madhwapur of 159 Mankapur Assembly Constituency, is alleged to have reported about booth capturing and to have been compelled to leave the polling station. This could not be a ground for election petition. This ground appears to have been made out after the result was declared against the petitioner and it did not form part of the ground.

It has been mentioned in paragraph 25 that the polling agents at various polling stations were threatened and assaulted and that one report of one polling agent was accepted at the police station. No allegation has been made in this paragraph against the respondent nor it could be a ground for election petition. This allegation is unnecessary.

It has been pleaded in paragraph 26 that there have been last minute changes of sector Magistrate and Zonal Magistrate which changes were made by the District Election Officer in Mankapur Assembly Constituency. Any involvement of the respondent has not been specifically pleaded in this paragraph. The allegations are made against the District Election Officer. The allegations are, therefore, vague and unnecessary for the purposes of the election petition.

It has been pleaded in para 27 that the Assistant Returning Officer of 159 Mankapur Assembly Constituency did not submit his record and the Presiding Officer of Polling Station 153 of Bankasiya Shiv Ratan Singh of 160 Mujhena Assembly Constituency did not submit his diary in the election office. Any involvement of the respondent in this connection has not been pleaded and this was an unnecessary pleading for the purpose of an election petition.

It has been pleaded in Paragraph 28 that during the canvassing and campaigning of election the petitioner had come across and had smelt about organised booth capturing at the hands of the respondent and his henchmen for which he had sent the telegram to the Chief Election Commission. The word 'smelt' shows that the telegram was not sent on the basis of certain established facts and it might have been sent as a 'poshbandi' for scandalising the respondent. Also, it

has not been mentioned in this paragraph that what was the source of his knowledge and swelling.

In paragraph 29 it has been pleaded that a telegram was sent to the Director General of Police, U.P. about the participation of some government employees in the election campaign; specially the Station Officer of various police stations. This telegram appears to have been sent for cooking up an evidence. It has not been pleaded that what part was played by those station Officers of various police stations and how and who were intimidated by them for voting in favour of the respondent. It is a vague and general type of allegation which cannot be substantiated by any amount of evidence whatsoever.

It has been mentioned in paragraph 30 that some workers of booth no. 14 Sultanjot of Gonda Assembly Constituency and no. 155, 166 Karda of Mankapur Assembly constituency had sent a telegram to the Election Commission regarding booth capturing. It has not been mentioned as to who had captured the booth and how the petitioner could know about the booth capturing as he did not plead that he was present there. He claimed that telegram was sent at 3 P.M. on 27-12-84. It has not been pleaded that if the polling was or was not postponed. So this allegation is vague and frivolous and it does not have any bearing on the respondent.

The petitioner pleaded in para 31 that he had himself seen booth capturing and had sent a telegram and also that two polling officers had submitted their reports to the Assistant Returning Officer and one of them was Srinath Pandey of polling station of 198 Madhwapur and the other was Devendra Nath Mishra. This paragraph is the repetition of the allegations made in paragraphs 22 and 24 of the petition. It has been pleaded in it that carbon copies were given by the said two polling officers to one Mukti Nath Shukla which allegation appears to be misconceived because it does not look possible that two polling Officers at two different polling stations would hand over carbon copies of their report to Mukti Nath Shukla. So this pleading is unnecessary and frivolous.

It has been pleaded in Paragraph 32 that the petitioner's election agent M. N. Shukla filed objections before the Presiding officer of polling station Bishanpur and that the Presiding officer Bhisham Dhar Dwivedi endorsed the receipt of the objection and passed orders thereon and handed back the objections to the election agent Mukti Nath Shukla. It does not appeal to reason that the Presiding Officer handed over the object one containing his endorsement to the agent of the petitioner. The same had become a government property after endorsement was made on the same by the Presiding Officer. The possibility cannot be ruled out that the presiding officer Bhisham Dhar Dwivedi might have been won over after the petitioner lost the election. This evidence could be called to be an unauthorised evidence which would not come from proper custody. So these pleadings are also unnecessary.

It has been pleaded in paragraph 33 that the petitioner's agent M. N. Shukla found some open ballots being marked in favour of the respondent and he filed objections of polling station Chandipur of Gonda Assembly constituency on which objections the presiding officer made an endorsement and returned back the objections with illegible orders without taking any action. It is again an unauthorised evidence which would not come from proper custody as the Presiding Officer was not expected to hand over the objections, containing his endorsement, to the petitioner's agent. This pleading is again vague and frivolous.

In para 34 it has been pleaded that the petitioner deposited a sum of Rs. 2,000 as security which has nothing to do with the allegations referring to the corrupt practices etc.

The petitioner pleaded in paragraph 35 that he was obstructed from collecting the details and full particulars about the changes made in the officials a few days before the polling date. These pleadings have nothing to do with any act of the respondent and they are unnecessary. Rather these

pleadings are raised with an intent of prolonging the proceedings of the election petition.

The pleadings in paragraph 36 relate to the filing of certain documents and they do not cast any reflection on the conduct of the respondent.

It has been pleaded in paragraph 37 that the respondent adopted corrupt practices in the conduct of the election as such the election deserves to be set-aside and declared null and void and further consequential penalties as enshrined in the Act and the rules framed therein. This is the last paragraph of the election petition which is meant for showing cause of action. A reference has been made about the corrupt practices in the conduct of election by the respondent but any description or particulars of those corrupt practices has not been given in this paragraph. Specific instances of corrupt practices should have been mentioned in it. These allegations are again vague. In this paragraph 37 of the election petition the particulars of the case of action should have been mentioned in detail since they were not mentioned in other paragraphs in accordance with the requirement of law.

Section 83(c) of the act lays down that an election petition shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure of 1908 for the verification of pleadings :

Provided that where the petitioner alleges any corrupt practices, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

In sub-section (2) of section 83 it has been laid down that any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

The form of the affidavit is prescribed as Form 25 of the Conduct of Election Rules, 1961 as below :—

FORM 25

Affidavit

(See rule 94A)

I _____ the petitioner in the accompanying election petition calling in question the election of Shri/Shrimati _____ (respondent No. _____ in the said petition) make solemn affirmation/oath and say :—

- (a) that the statements made in paragraphs _____ of the accompanying election petition about the corrupt practice of and the particulars of such corrupt practice mentioned in paragraphs _____ of the same petition and in paragraphs of the schedule annexed thereto are true to my knowledge ;
- (b) that the statements made in paragraphs _____ of the said petition about the commission of the corrupt practice of _____ and the particulars of such corrupt practice given in paragraphs _____ of the said petition and in paragraphs _____ of the Schedule Annexed thereto are true to my information ;
- (c) _____ etc.

Solemn affirmation/sworn by Shri/Shrimati at this _____ day of _____ before me _____ Magistrate of the first class/Notary/ _____ Commissioner of Oath.

*Here specify the name of the corrupt practice.

The affidavit filed by the petitioner is paper No. 52 of the election petition which is not in the prescribed form No. 25. This affidavit has been sworn in a general way in the same prescribed Form, but he should have specified the details of the corrupt practices in sub-paras (a) and (b) of the affidavit where there has been an asterisk mark in the prescribed Form No. 25. It is mandatory that such an affidavit

should accompany the election petition. Then, the annexure to the petition are compulsorily to be signed by the petitioner and verified in the same manner as the petition. The annexures accompanying the affidavit are signed by the petitioner but they are not verified in the same manner as the petition.

I may add that the parties filed written arguments which have been made part of the record. All the material points contained therein have already been discussed. A number of rulings have been mentioned in the written arguments but it was not considered necessary to discuss every such ruling. However all the leading decisions touching the points in issue have been considered and discussed.

Thus the paragraphs 4, 6 to 33, 35 and 37 of the election petition are liable to be struck down while the paragraphs 1 to 3, 5, 34 and 36 are not sufficient to continue the election petition. Also the petition does not contain cause of action and there is nothing more in the case to be done and the case is at a stage of conclusion of trial as contemplated by section 98 of the Act. In view of the case of Hardwari Lal vs. Kanwar Singh (1972 S.C. 515) an election petition has

to be tried, as nearly as may be, in accordance with the Code of Civil Procedure as is the Spirit of Section 87 of the Act, and it is liable to be dismissed like a suit which does not furnish a cause of action. This election petition is, therefore fit to be dismissed.

Therefore, the applications O.M.A. No. 39(E) and 41(E) are allowed and the objections of petitioner vide O.M.A. No. 54(E) and 56(E) are dismissed.

This Election petition No. 3 of 1985 is dismissed with costs to the respondent which are assessed at Rs. 2,000. The costs shall be paid out of the security money.

Substance of the judgment shall be sent forthwith to the Election Commission and the Hon'ble Speaker of the Lok Sabha. Certified copies of the judgment shall be expeditiously sent to the Election Commission in duplicate.

Sd/-

Parmeshwar Dayal

18-11-1985

नई दिल्ली, 7 जनवरी, 1987

आदेश

आ.व. 23.—निर्वाचन आयोग का समाधान हो गया है कि नीचे की मारणी के स्तम्भ (2) में यथा विनिर्दिष्ट विधानसभा के साधारण निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन लेने से हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अध्यर्थी लोक प्रतिनिधित्व अधिनियम, 1951 तथा तदोन्न बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा उपदण्डित रूप में अपने निर्वाचन अध्यर्थों का लेखा वाचिल करने में असफल रहा है अथवा निर्वाचन अध्यर्थों का लेखा समय के अंतर्गत और/अथवा अपेक्षित ग्रन्ति से बाहिल करने में असफल रहा है;

श्री उक्त अध्यर्थियों ने सम्पर्क सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उसके द्वारा विए गए अस्वावेदनों पर यदि कोई हो, विवार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्यायोनियम नहीं है;

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसार में नीचे की मारणी के स्तम्भ (4) में विनिर्दिष्ट अध्यर्थियों को संमत के किसी भी सदन के या किसी राज्य/संघ राज्य की विधान सभा अथवा विधान परिषद् के सदस्य जने जाने और जाने के लिए आवेदन की तारीख से तीन घंटे की कालावधि के प्रलए निहित घोषित करता है।

मारणी

क्रम सं.	निर्वाचन का क्रियारण	विधान सभा निर्वाचन लेने की तम सं. और नाम	निर्वाचन लड़ने वाले अध्यर्थी का नाम और पता	निरहता का कारण
1	2	3	4	5
1.	विहार विधान सभा का साधारण निर्वाचन, 1985	47-महानार	श्री अवधेश नाथयण मिह, ग्राम-अस्त्वालानपुर, डाकघर-दारहोड़ा, थाना-गीनापुर, मुजफ्फरपुर।	निर्वाचन अध्यर्थों का लेखा वाचिल करने में असफल रहे।
2.	--वही--	--थरी--	श्री पुनीत राय, मथन तथा डाकघर-सहौली बुज़ंग	--वही--
3.	--वही--	--वही--	श्री विश्वनाथ राय, डाकघर-कंचनपुर, थाना-राजामन, विधापुर (बैशाली)।	--वही--
4.	--वही--	48-जनवाहा	श्री नवल किशोर मिश्र, ग्राम तथा डाकघर-नरेश्वर, थाना-जनवाहा, जिला बैशाली (बिहार)	--वही--
5	--वही--	--वही--	श्री शीरेन्द्र साह, स्थान तथा डाकघर सिद्धांडा, जिला-बैशाली, बिहार।	--वही--

1	2	3	4	5
6.	बिहार विधान सभा का साधारण नियोजन 1985	48- जनदाता	श्री महादेव सिंह ग्राम-सिंधाजा बर्जूग, डाकघर-सिंधाडा, जिला-बैंगलोर।	निवाचित व्ययों का लेखा अपेक्षित रीति से वाखिल नहीं किया।
7.	--वही--	140-कोइर (अ.जा.)	श्री नागेश्वर नाथ, ग्राम तथा डाकघर-छोहार, जिला कटिहार, बिहार।	निवाचित व्ययों का लेखा वाखिल करने में असफल रहे।
8.	--वही--	140-कोडा (अ.जा.)	श्री योगेश्वर पासवान, ग्राम-माजरा, डाकघर-मवानीपुर, कामच्छायापुर, जिला कटिहार।	निवाचित व्ययों का लेखा समय के अन्दर ¹ तथा अपेक्षित रीति से वाखिल नहीं कियाँ।
9.	--वही--	141-नातरी	श्री कैलाश महलों, ग्राम-कोलाहाव, भीरकल, डाकघर-काठा गोला, जिला कटिहार (बिहार)	निवाचित व्ययों का लेखा वाखिल करने में असफल रहे।
10.	--वही--	--वही--	श्री यशरथ प्रसाद सिंह, ग्राम-बुदुचक डाकघर--सैदपुर, जिला-झोगलपुर (बिहार)	--वही--
11.	--वही--	--वही--	श्री पटेल कुमार तिहा, ग्राम--अमीनाबाद, डाकघर--सेमापुर फैक्ट्री, जिला-कटिहार, बिहार	--वही--
12.	--वही--	--वही--	श्री राजेन्द्र प्रसाद साह, ग्राम-सकरौली मीलीक, डाकघर-सीमापुर फैक्ट्री, जिला कटिहार (बिहार)	--वही--
13.	--वही--	143-फटवा	ब्लाजा शाहिद हुसैन, गुरहटा बक्षी, मह मोहल्ला बाई न. 27, डाकघर-फटवा सिटी, भारतगंगा, पटना, बिहार।	--वही--
14.	--वही--	--वही--	श.पी.कुरुर रहमान, ग्राम-कुरसेला, डाकघर-कोउआ, वाया सालमली, जिला-कटिहार, बिहार।	--वही--
15.	--वही--	--वही--	श्री राजेन्द्र प्रसाद यादव, ग्राम-कांठिया, डाकघर-सोनाली, जिला-कटिहार बिहार	--वही--
16.	--वही--	144-बारसोई	श्री जियाय हुसैन सार, ग्राम-गोविन्दपुर डाकघर-हटवाल, रामपुर, जिला कटिहार बिहार	--वही--
17.	--वही--	--वही--	श्री योगेश्वर नाथ दास, ग्राम-बुबलालपुर, बलरामपुर, ग्राम-बलरामपुर, जिला-कटिहार (बिहार)	--वही--

1	2	3	4	5
18.	विहार विद्याल समा का साधारण निर्बंधन, 1985	144—वारसोई	श्री मोहम्मद सिद्दीकी बैशील, डाकघर—बलरामपुर, जिला—कटिहार (विहार)	निवाचित व्ययों का लेखा वाचिल करते में असफल रहे।
19.	--वही--	148—मानेहारी	श्री चन्द्रशेखर, शुभार चौधरी ग्राम तथा डाकघर—सिसिया, पाना—कोइरा, जिला—कटिहार (विहार)	--वही--
20.	--वही--	--वही--	श्री जगन नाथ यादव, ग्राम—मिजापुर, डाकघर—टी. एस. षष्ठी, जिला—कटिहार, विहार	--वही--
21.	--वही--	--वही--	श्री शिव पूजन यादव, ग्राम—किशनपुर, डाकघर—हेमकुंज, जिला—कटिहार (विहार)	--वही--
22.	--वही--	--वही--	श्री मुवामा प्रसाद मिह, ग्राम—मोहनपुर याहमहा, डाकघर—मुद्र चाक, जिला—मानालपुर (विहार)	--वही--
23.	--वही--	147—राजमहल	श्री असद अली, मैना तलच, डाकघर—राजमहल, जिला—साहेलीगंज, (विहार)	--वही--
24.	--वही--	--वही--	श्री उवयमान मिह, पतरायादा, डाकघर—तोरीई, जिला—साहेलीगंज, (विहार)	--वही--
25.	--वही--	--वही--	श्री चंद्रा सिंह, नई सड़क, साहेलीगंज, (विहार)	निवाचित व्ययों का लेखा वाचिल नहीं किया।
26.	--वही--	--वही--	श्री वारोगी माछल, गोडनी घोक, याना—मुरजा, विहार।	--वही--
27.	--वही--	--वही--	श्री दुर्गा चन्द्र घोष, लखमीपुर, याना—राजमहल, माहेलगंज, विहार।	--वही--
28.	--वही--	--वही--	श्री पण्डित शाह, हस्तीपाड़ा, डाकघर—एसोलड़ा, बरहस्ता जिला—साईबगंज, विहार।	--वही--
29.	--वही--	--वही--	श्री रामेश्वर मण्डल, कुषनगर, साहेलीगंज, विहार।	--वही--
30.	--वही--	--वही--	श्री सुरेश घोरसिया, नरहरता, साहेलीगंज, विहार।	--वही--
31.	--वही--	148—बोरियो (अ. ज. जा.)	श्री परमेश्वर हेमराम ग्राम—मनुभा सोल, डाकघर—गाँधी ग्राम, जिला—गोड्डा, विहार।	--वही--

1	2	3	4	5
32.	विहार विधान सभा का सामारण निर्बाचन, 1985	148-वौरियी (अ.ज.जा.)	श्री बाबूराम हेमराम, ग्राम-व डाकघर-बोयारी और, जिला-साहेबगंज, (विहार)	निर्बाचन व्ययों का सेवा दाखिल नहीं किया।
33.	--वही--	--वही--	श्री मंगल हेमराम, ग्राम-बाड़ा दुर्गपुर, (विहार)	--वही--
34.	--वही--	149-वरहर (म.जा.)	श्री ईश्वर माराणी, ग्राम-अंगोरीबानी, टोला-डाकघर पानेकोथिया, जिला-साहेबगंज, विहार	--वही--
35.	--वही--	--वही--	श्री नरारायण दुड़ु, ग्राम-मसूखती, डाकघर-पठाना, जिला-साहेबगंज।	--वही--
36.	--वही--	--वही--	श्री यामूरी बासी, ग्राम-बाधाबोध, डाकघर-वरहर जिला-साहेबगंज, विहार।	--वही--
37.	वही	--वही--	श्री हेमलाल भुरमु, ग्राम-बंकाघाट, डाकघर-वरहीनी, जिला-जोड़ा, विहार।	--वही--
38.	--वही--	150-तिटिपाड़ा, (म.ज.जा.) (अ.जा.)	श्री पगान किस्तु, ग्राम-बंसेपुर, डाकघर-बोल बोलाइ	--वही--
39.	--वही--	--वही--	श्री सुखदेव पहाड़िया, ग्राम-तथा डाकघर-पाठेरलोका, जिला-साहेबगंज, विहार।	--वही--
40.	--वही--	--वही--	श्री सोमसुस्मु, ग्राम तथा डाकघर-बांस बाल्हरी, जिला-साहेबगंज, विहार।	--वही--
41.	--वही--	152-महेशपुर	श्री नित्यानन्द हुड़ु, ग्राम तथा डाकघर-तारापुर, ग्राम-महेशपुर जिला-साहेबगंज, विहार।	--वही--
42.	--वही--	152-महेशपुर (अ.ज.जा.)	श्री भगत मुरतु, ग्राम-रामपुर, डाकघर-बसकेसी, ग्राम-महेशपुर, जिला-साहेबगंज।	--वही--
43.	--वही--	210-मनेर	श्री इन्द्रदेव प्रसाद, ग्राम-बच्चू टोला, डाकघर-सुविसोपुर, ग्राम-बिहूटा, जिला-पटना, विहार।	निर्बाचन व्ययों का सेवा प्रपेक्षित रीति से तथा समय के प्रत्यक्षर दाखिल करने में असफल रहे।
44.	--वही--	245-जहानाबाद	श्री मदन मोहन जमानी, ग्राम-पारस दीबा, डाकघर-मानविल, गया-जिला।	निर्बाचन व्ययों का सेवा दाखिल करने में असफल रहे।
45.	--वही--	291-जमशेषपुर (पूर्व)	रमणी गोड़, ग्राम-मुराकाटी, डाकघर-लोहाबासा, बिरसा नगर, विहार।	निर्बाचन व्ययों का सेवा समय के प्रत्यक्षर दाखिल करने में असफल रहे।

ELECTION COMMISSION OF INDIA

New Delhi, the 7th January, 1987

ORDER

O.N. 23.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to the Legislative Assembly as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses or failed to lodge the account within the time and or in the manner, as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder:

And whereas the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representations made by them, if any is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section of 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of 3 years from the date of this order.

TABLE

Sl. No.	Particulars of election	S.No. Name of the Assembly Constituency	Name Address of the contesting candidate	Reason for disqualification
1	2	3	4	5
1.	General Elections to Bihar Legislative Assembly, 1985	47—Mahnar	Shri Abhishesh Narain Singh, Vill. Astalakpur, P.O. Barhanda, P.S. Mainapur, Muzaffarpur.	Account of election expenses not lodged.
2.	-do-	-do-	Shri Punit Rai, At. P.O. Sahdai Bujury,	-do-
3.	-do-	-do-	Shri Bishvnath Rai, Kanchanpur, P.S. Rajasan, P.S. Bidhupur, (Vaishali)	-do-
4.	-do-	48—Jandaha	Shri Nawal Kishore Singh, Vill. P.O. Narhampur, P.S. Jandaha, Distt. Vaishali, Bihar.	-do-
5.	-do-	-do-	Shri Birendra Sah, At-P.O. Singhra, Distt. Vaishali, Bihar.	-do-
6.	-do-	-do-	Shri Mahadeo Singh, Vill. Singhra Buzung, P.O. Singhra, Dist. Vaishali.	Account of election expenses not lodged in the manner required by law.
7.	-do-	140—Korha (SC)	Shri Nageshwar Rishi, Vill. R.P.O. Chhohar, Distt. Katihar, Bihar.	Account of election expenses not lodged.
8.	-do-	-do-	Shri Yogeshwar Paswan, Vill. Majra, P.O. Bhawanipur, Kamakhyaстан, Dist. Katihar.	Account of election expenses not lodged within the time and in the manner required by law.
9.	-do-	141—Barari	Shri Kailash Mahto, Vill. Kolgaon, P.O. Karagola, Distt. Katihar, Bihar.	Account of election expenses not lodged.
10.	-do-	-do-	Shri Dasbrath Pd. Singh Vill. Budhuchak, P.O. Saidpur, Dist. Bhagalpur, Bihar.	-do-

1	2	3	4	5
11.	General Elections, to the Bihar Legislative Assembly, 1985	141-Barari	Shri Patel Kumar Singh, Vill. Amritiabad, P.O. Sonapur Factory, Distt. Katihar, Bihar.	Account of election expenses not lodged.
12.	-do-	-do-	Shri Rajendra Pd. Singh, Vill. Sakrauli Mithik, P.O. Sonapur Factory, Distt. Katihar, Bihar.	-do-
13.	-do-	143-Kadwa	Shri Kula Sahid Hussain, Gurhatia Bakshi, Mohalla Ward No. 27 P.O. Patna City, Bhuganj Patna, Bihar.	-do-
14.	-do-	-do-	Shri Shafikur Rahman, Vill. Kursela, P.O. Jhousa, Via-Salmari, Distt. Katihar, Bihar.	-do-
15.	-do-	-do-	Shri Rajendra Pd. Yadav, Vill. Kantia, P.O. Sonali, Distt. Katihar, Bihar.	-do-
16.	-do-	144-Barsoi	Shri Jiyal Hussain Sar, Vill. Gobindpur, P.O. Hatwal, Rampur, Distt. Katihar, Bihar	-do-
17.	-do-	-do-	Shri Yogendra Nath Das, Vill. Dubbalpur, Balrampur, Thana-Balrampur, Distt. Katihar, Bihar.	-do-
18.	-do-	-do-	Shri Mohd. Siddique, Vill. Bedaul, P.O. Balrampur, Distt. Katihar, Bihar.	-do-
19.	-do-	146-Manihari	Shri Chandra Shekhar, Kumar Choudhary, Vill. P.O. Sisia, P.S. Korha, Dist. Katihar, Bihar.	
20.	-do-	-do-	Shri Jagar Nath Yadav, Vill. Mirjapur, P.O. T.M. Baghar, Dist. Katihar, Bihar.	-do-
21.	-do-	-do-	Shri Sheo Pujan Yadav, Vill. Kishanpur, P.O. Hemkunj, Distt. Katihar, Bihar.	-do-
22.	-do-	-do-	Shri Sudama Pd. Singh, Vill. Moinpur, Ghaighatta, P.O. Budhuzhak, Dist. Bhagalpur, Bihar.	-do-

1	2	3	4	5
23.	General Elections to the Bihar Legislative Assembly, 1985.	147—Rajmahal	Shri Asad Ali, Maina Talab, P.O. Rajmahal, Dist. Sahebganj, Bihar.	Account of election expenses not lodged.
24.	-do-	-do-	Shri Udalman Singh, Patrapara, P.O. Torai, Dist. Sahebganj, Bihar.	-do-
25.	-do-	-do-	Shri Chanda Singh, Nai Sarak, Sahebganj, Bihar.	-do-
26.	-do-	-do-	Shri Darogi Mandal, Modni Chowki, Thana—Surja,	-do-
27.	-do-	-do-	Shri D'urga Charan Ghosh, Lakhmipur, Thana—Rajmahal, Sahebganj, Bihar.	-do-
28.	-do-	-do-	Shri Pashupati Shah, Hastipara, P.O. Agrolai Barharva, Distt. Sahebganj, Bihar.	-do-
29.	-do-	-do-	Shri Ramashwar Mandal, Krishnagar Sahebganj, Bihar.	-do-
30.	-do-	-do-	Shri Suresh Chaurasia, Barharva, Sahebganj (Bihar)	-do-
31.	-do-	148—Bario (SC)	Shri Parmeshwar Hemram, Vill. Mahuya Sol. P.O. Gandhigram, Dist. Godda, Bihar.	-do-
32.	-do-	-do-	Shri Babu Ram Hemram, Vill. P.O. Boyarior, Distt. Sahebganj, Bihar.	-do-
33.	-do-	-do-	Shri Mangal Hemram, Vill. Bara Durgapur, Bihar.	-do-
34.	-do-	149—Barhait (SC)	Shri Ishwar Marandi, Vill. Aurgoribari, Tola-P.O. Panchkothia, Dist. Sahebganj, Bihar.	-do-
35.	-do-	-do-	Shri Narayan Tudu, Vill. Majurvuti, P.O. Patna, Distt. Sahebganj,	-do-
36.	-do-	-do-	Shri Babuji Baski, Vill Baghabodh, P.O. Barohat, Dist. Sahebganj, Bihar.	-do-
37.	-do-	-do-	Shri Hemjal Murmu, Vill. Bankaghat, P.O. Bhakhani, Dist. Goda, Bihar.	-do-

1	2	3	4	5
38.	General Elections to the Bihar Legislative Assembly, 1985	150—Litipara (ST)	Shri Pagan Kisku, Vill. Dharampur, P.O. Doldoli, Dist. Sahebganj, Bihar.	Account of election expenses not lodged.
39.	-do-	-do-	Shri Sukdeo Paharia, Vill. P.O. Padarkola, Dist. Sahebganj, Bihar.	-do-
40.	-do-	-do-	Shri Som Murmu, Vill. P.O. Baskandri, Dist. Sahebganj, Bihar.	-do-
41.	-do-	152—Maheshpur (ST)	Shri Nityanand Tudu, Vill-P.O. Tarapur, Thana-Maheshpur, Dist. Sahebganj (Bihar)	-do-
42.	-do-	-do-	Shri Bhagat Murmu, Vill. Rampur, P.O. Baskandi, Thana-Maheshpur, Dist. Sahebganj (Bihar)	-do-
43.	-do-	210—Maner	Shri Inderdeo Prasad, Vill. Bachutola, P.O. Sudisopur, P.O. Bihta, Dist. Patna.	Failed to lodge the account within time and manner.
44.	-do-	245—Jehanabad	Shri Madan Mohan Sharma, Vill. Parasbigha, P.O. Mandil, Gaya Dist. (Bihar)	Failed to lodge the account of election expenses at all
45.	-do-	291—Jamshedpur	Shri Ramni Goud, Vill. Murakati, P.O. Lohabasa, Birsanagar, Bihar.	Failed to lodge the Account within the time and manner required by law.

[No. 76/BR-LA/85]

By Order,
S.D. PERSHAD, Under Secy.

